

ASSEMBLY BILL

No. 2181

Introduced by Assembly Member Hagman

February 18, 2010

An act to amend Sections 10106, 10107, and 10108 of, and to repeal Section 10108.5 of, the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2181, as introduced, Hagman. State Contract Act: contracting by state agencies.

Existing law authorizes the Department of General Services, where the nature of the work in the opinion of the department is such that its services in connection with a project are not required, to permit the carrying out of the project directly by the state agency concerned with the project, if the estimated project cost does not exceed \$400,000, except as provided.

This bill would increase that cost limit to \$800,000, as provided.

Existing law requires the district or agency, if the total cost of any construction project or work carried out pursuant to those public contract provisions exceeds \$25,000, to solicit written bids and let the contract to the lowest responsible bidder or reject all bids. Existing law authorizes the Director of General Services to authorize the district or agency to carryout work in excess of \$25,000 by day labor if he or she deems that the award of a contract, the acceptance of bids, or the acceptance of further bids is not in the best interests of the state, but, prohibits the amount of work on a contract performed by day labor from exceeding \$50,000 for district agricultural association fair projects, or \$35,000 in other cases.

This bill would increase to \$78,000 maximum cost of a project for which the district or agency would not be required to solicit written bids and let the contract to the lowest responsible bidder, and would prohibit the use of day labor on work that exceeds the sum of \$155,000, as provided.

Existing law allows the department to authorize a board, commission, or conservancy within the Resources Agency, when the nature of the work by departments, boards, commissions, or conservancies within the Resources Agency, in the opinion of the department, is such that its services are not required, to carry out a project, as long as the estimated project costs do not exceed \$500,000, and allows the State Coastal Conservancy, with the approval of the department, to directly carry out a public works project involving habitat or wetlands restoration and certain improvements other than buildings and nonaccess related structures, on specified state-owned lands.

Existing law requires the Department of Forestry and Fire Protection to solicit bids in writing and award the work to the lowest responsible bidder or reject all bids if the estimated cost of construction project or work caused cut pursuant to these provisions exceeds \$50,000.

This bill would repeal those provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10106 of the Public Contract Code is
2 amended to read:
3 10106. For purposes of this ~~part~~ chapter:
4 (a) “Department” means any of the following:
5 (1) The Department of Water Resources as to any project under
6 the jurisdiction of that department.
7 (2) The Department of ~~General Services~~ *Transportation* as to
8 any project under the jurisdiction of that department.
9 (3) The Department of Boating and Waterways as to any project
10 under the jurisdiction of that department pursuant to Article 2.5
11 (commencing with Section 65) of Chapter 2 of Division 1 of the
12 Harbors and Navigation Code.

(4) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(5) The Military Department as to any project under the jurisdiction of that department.

(6) The Department of ~~Transportation~~ *General Services* as to all other projects.

(b) "Director" means the director of each department as defined herein respectively.

SEC. 2. Section 10107 of the Public Contract Code is amended to read:

10107. Whenever provision is made by law for any project ~~which~~ *that* is not under the jurisdiction of the Department of Water Resources, the Department of Boating and Waterways pursuant to Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code, the Department of Corrections *and Rehabilitation* pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code, ~~or the Department of General Services Transportation, or the Military Department,~~ the project shall be under the sole charge and direct control of the Department of ~~Transportation~~ *General Services*.

SEC. 3. Section 10108 of the Public Contract Code is amended to read:

10108. Where the nature of the work in the opinion of the department is such that its services in connection therewith are not required, it may authorize the carrying out of the project directly by the state agency concerned therewith if the estimated cost does not exceed ~~four hundred thousand dollars (\$400,000)~~ *eight hundred thousand dollars (\$800,000)*, except that the ~~four hundred thousand dollars (\$400,000)~~ *eight hundred thousand dollar (\$800,000)* limitation shall not apply to a project of a district agricultural association or a project of the State Lands Commission. *Any capital outlay project with a total value that does not exceed eight hundred thousand dollars (\$800,000) may be budgeted as a minor capital outlay project. This limit shall be adjusted pursuant to subdivision (b) of Section 10105.*

If the estimated total cost of any construction project or work carried out under this section exceeds ~~twenty-five thousand dollars~~

1 ~~(\$25,000)~~ *seventy-eight thousand dollars (\$78,000)*, the district
2 or agency shall solicit bids in writing and shall award the work to
3 the lowest responsible bidder or reject all bids. However, the
4 director may authorize the district or agency to carry out work in
5 excess of ~~twenty-five thousand dollars (\$25,000)~~ *seventy-eight*
6 *thousand dollars (\$78,000)* under the provisions of this section by
7 day labor if he or she deems that the award of a contract, the
8 acceptance of bids, or the acceptance of further bids is not in the
9 best interests of the state. In no event shall the amount of work
10 performed by day labor under this section exceed the sum of fifty
11 ~~thousand dollars (\$50,000)~~ *in the case of district agricultural*
12 *association fair projects, or thirty-five thousand dollars (\$35,000)*
13 *in other cases one hundred fifty-five thousand dollars (\$155,000).*
14 *This limit shall be adjusted pursuant to subdivision (b) of Section*
15 *10105.*

16 SEC. 4. Section 10108.5 of the Public Contract Code is
17 repealed.

18 ~~10108.5.—(a) When the nature of the work by departments,~~
19 ~~boards, commissions, or conservancies within the Resources~~
20 ~~Agency, in the opinion of the Department of General Services, is~~
21 ~~such that its services in connection therewith are not required, it~~
22 ~~may authorize the carrying out of the project directly by the~~
23 ~~department within the Resources Agency concerned therewith if~~
24 ~~the estimated cost does not exceed five hundred thousand dollars~~
25 ~~(\$500,000). This limit shall be adjusted pursuant to subdivision~~
26 ~~(b) of Section 10105.~~

27 ~~(b) If the estimated total cost of any construction project or work~~
28 ~~carried out under this section exceeds fifty thousand dollars~~
29 ~~(\$50,000), the Department of Forestry and Fire Protection shall~~
30 ~~solicit bids in writing and shall award the work to the lowest~~
31 ~~responsible bidder or reject all bids. However, the Director of~~
32 ~~General Services may authorize the Department of Forestry and~~
33 ~~Fire Protection to carry out work in excess of fifty thousand dollars~~
34 ~~(\$50,000) under this section by day labor if he or she deems that~~
35 ~~the award of a contract, the acceptance of bids, or the acceptance~~
36 ~~of further bids is not in the best interests of the state. However, in~~
37 ~~no event shall the amount of work performed by day labor under~~
38 ~~this section exceed the sum of one hundred thousand dollars~~
39 ~~(\$100,000). This limit shall be adjusted pursuant to subdivision~~
40 ~~(b) of Section 10105.~~

1 ~~(e) Notwithstanding the cost limitation of subdivision (a), the~~
2 ~~State Coastal Conservancy may, if authorized by the Department~~
3 ~~of General Services as described in subdivision (a), directly carry~~
4 ~~out a public works project involving habitat or wetlands restoration~~
5 ~~and related pedestrian or cycling access improvements, not~~
6 ~~including buildings or other nonaccess-related structures on the~~
7 ~~following state-owned lands: Bel Marin Keys Unit V in Marin~~
8 ~~County, Eden Landing Ecological Reserve (a part of the South~~
9 ~~Bay Salt Pond Restoration Project) in Alameda County, Bair Island~~
10 ~~Ecological Reserve in San Mateo County, Napa Sonoma Marshes~~
11 ~~State Wildlife Area in Napa, Solano, and Sonoma Counties,~~
12 ~~Ballona Wetlands Ecological Reserve in Los Angeles County,~~
13 ~~Buena Vista Lagoon Ecological Reserve in San Diego County,~~
14 ~~Los Peñasquitos Marsh in Torrey Pines State Natural Reserve in~~
15 ~~San Diego County, and Tijuana Estuary State Park in San Diego~~
16 ~~County. In carrying out a public works project pursuant to this~~
17 ~~subdivision, the State Coastal Conservancy shall comply with the~~
18 ~~provisions of, and regulations adopted pursuant to, this chapter.~~

19 SEC. 5. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety within
21 the meaning of Article IV of the Constitution and shall go into
22 immediate effect. The facts constituting the necessity are:

23 In order to implement the statutory changes necessary to
24 implement the 2009–10 and the 2010–11 Governor’s Budget, in
25 a timely manner, it is necessary that this act take effect
26 immediately.